

BEFORE THE IDAHO BOARD OF TAX APPEALS

IN THE MATTER OF THE APPEALS OF EDWIN) APPEAL NOS. 07-A-2031
HENDERSHOT AND HENDERSHOT) AND 07-A-2032
CONSTRUCTION, INC. from decisions of the Board) FINAL DECISION
of Equalization of Ada County for tax year 2007.) AND ORDER

RESIDENTIAL AND VACANT LAND APPEALS

THESE MATTERS came on for hearing December 13, 2007, in Boise, before Presiding Officer Sandra Tatom. Board Members Lyle R. Cobbs, Linda S. Pike, and David E. Kinghorn participated in this decision. Appellant Edwin Hendershot appeared. Chief Deputy Tim Tallman and Appraiser Dave Jauquet appeared for Respondent Ada County. These appeals are taken from decisions of the Ada County Board of Equalization denying protests of valuation for taxing purposes of properties described as Parcel Nos. R9326820360 and R9326820350.

The issue on appeal is the market value of one improved and one vacant residential property.

The decisions of the Ada County Board of Equalization are reversed.

FINDINGS OF FACT

Parcel No. R9326820360

Subject's land value is \$300,000 and the improvements' valuation is \$573,600, totaling \$873,600. Appellant requests the land be reduced to \$200,000 and the improvements be reduced to \$550,000, for a total reduced value of \$750,000.

Subject is a .396 acre lot located in an "up-scale" Eagle subdivision. The improvements include a 5,008 square foot residence built in 2006 with an attached 1,234 square foot garage. Subject is separated from the south fork of the Boise river by a riparian area and an unpaved greenbelt pathway. Appellant purchased subject lot in April 2006 for \$183,806 and built the residential improvements soon thereafter. During hearing, Appellant amended the complaint to

challenge only subjects' land values.

Parcel No. R9326820350

There are no improvements, however, subject's assessed land value is \$300,000. Appellant requests the land value be reduced to \$200,000.

Subject is a .391 acre lot adjacent to the above-referenced improved parcel and is separated from the Boise river by the same riparian and greenbelt areas. Appellant purchased subject in June 2006 for \$183,806.

As Appellant only contested the land value of the subject lots, and there is nothing in the record to indicate any differences between the lots, the two properties will be considered together for purposes of this decision.

Appellant presented fourteen (14) lot sales from subjects' subdivision, thirteen (13) of which occurred during 2006; the remaining lot was sold in March 2007. The sale prices ranged between \$117,000 and \$182,000. The plat map provided by Respondent indicated the lots were roughly the same size as the subject parcels.

Appellant testified that during the early phases of the subdivision's development, the lots were "raffled off" to builders approved by the subdivision developer. Appellant was one of the approved builders, thus enabling Appellant's purchase of subjects. Appellant mentioned the builders were not allowed to purchase more than three (3) lots. Appellant noted at least five (5) lots were offered and sold to members of the "general public" (i.e. non-builders) for prices similar to the lots sold to builders.

Appellant challenged the comparability of the improved sale properties offered by Respondent. Both parties acknowledged two of the sales involved properties located in subdivisions superior to subjects' and one sale was located some distance away. Appellant

considered Respondent's improved sale 4 to be the most comparable to subject.

Respondent questioned the nature of Appellant's purchase of subjects. It was contended the lots were not purchased in open market transactions and thus their purchase prices were not reliable indicators of subjects' value. Respondent pointed out the lots in the subdivision were not available for purchase by non-builders. Respondent also mentioned it was common for builders to receive a significantly discounted price for purchasing bare lots in a new subdivision.

Appellant acknowledged discounts are sometimes given to builders who buy lots in bulk, but noted the developer of subjects' subdivision restricted builders to the purchase of no more than three (3) lots each. Appellant maintained no discount occurred in this case, and pointed to the several lots sold to non-builders as proof.

Respondent then presented four (4) bare land sales that occurred during 2006. The lots were approximately the same size as subjects and were located outside the subdivision. The prices ranged between \$319,000 and \$469,000.

Respondent noted all the lots in subjects' subdivision were assessed for \$300,000. It was reasoned that because only Appellant and one other owner in the subdivision appealed their assessed values, the lot assessments were accurate. Appellant asked how all lots could be valued the same, given the different attributes among the lots; especially those located near a busy thoroughfare. Respondent stated he personally would have made some minor adjustments, but assumed the original appraiser must have concluded the detriments were minor and did not warrant adjustment.

Respondent also provided four (4) improved sales of properties located in nearby subdivisions. The sales were offered to support the overall value of Parcel No. R9326820360 (the improved subject lot). The properties sold during 2006 for prices between \$799,500 and

\$1,200,000. Respondent made adjustments to account for differences compared to subject and arrived at adjusted sales prices between \$830,900 and \$1,099,300. Respondent acknowledged Sale 1 was located some distance away from subject and Sales 2 and 3 involved properties located in superior subdivisions. The parties agreed Sale 4, with an adjusted sale price of \$873,700, was the most comparable overall.

CONCLUSIONS OF LAW

This Board's goal in its hearings is the acquisition of sufficient, accurate evidence to support a determination of fair market value. This Board, giving full opportunity for all arguments and having considered all testimony and documentary evidence submitted by the parties in support of their respective positions, hereby enters the following.

Idaho adheres to a market value standard to value properties for the purpose of taxation, as defined in Idaho Code § 63-201(10);

“Market value” means the amount of United States dollars or equivalent for which, in all probability, a property would exchange hands between a willing sell, under no compulsion to sell, and an informed, capable buyer, with a reasonable time allowed to consummate the sale, substantiated by a reasonable down or full cash payment.

Respondent presented four (4) sales of improved properties to support the value of Parcel No. R9326820360. Both parties essentially agreed Respondent's Sales 1, 2, and 3 were not comparable to subject. This is further evidenced by the large adjustments applied by Respondent to make the properties “comparable”. Sale 4 was agreed by the parties to be most similar to subject, though significant adjustments were made to account for the nearly 1,000 square foot difference compared to subject. The property sold in December 2006 for \$799,500. The adjusted sale price was calculated at \$873,700. Subject's total assessment was \$873,600

While both parties agreed Respondent's improved Sale 4 was the most comparable to subject, troubling is the fact that nearly \$75,000 in adjustments were needed to make the properties similar for comparison purposes. Furthermore, as only the land value was appealed here, examination of the overall value is somewhat irrelevant.

Both parties submitted bare land sales to support their respective positions concerning the market value of the subject lots. Appellant presented fourteen (14) sales of lots located in subjects' subdivision, thirteen (13) of which occurred during 2006. The plat map provided by Respondent indicated the lots were similar in size to subjects. The sale prices ranged between \$117,000 and \$182,000. Subjects were purchased by Appellant in 2006 for \$183,806 each.

Respondent contended Appellant's sales were not arms-length transactions because the lots were only offered for sale to pre-approved builders. As such, Respondent provided four (4) 2006 bare lot sales of properties in subjects' general area and argued they were more reflective of subjects' land value than Appellant's lot sales. Not much detail was provided regarding the characteristics of the individual lots or the subdivisions in which they were located. The lot sizes were roughly the same as subjects and the sales prices were between \$319,000 and \$469,000. Subjects were assessed at \$300,000 per lot.

Appellant argued the sales from subjects' subdivision were the best indicators of land value in this case. While Appellant acknowledged discounts are sometimes given to builders who purchase lots in bulk, it was argued such was not the case here. Appellant pointed to the four or five lots sold to non-builders. Appellant further stated, that if a discount was given to builders, it certainly did not rise to the level implied by subjects' assessed value; approximately 40% above subjects' purchase price.

From the maps provided by the parties, there appear to be approximately thirty (30) lots

in subjects' subdivision. Appellant provided sale prices for nearly half of those lots. Of the sale prices reported by Appellant, subjects' were the highest. If a discount was indeed given, it does not appear Appellant received any such concession. No evidence was presented to validate Respondent's claim that Appellant's purchase of subjects was anything but a legitimate open market transaction. As such, the price paid for subjects in 2006 ought to be considered. It is similarly difficult to argue that sales of lots within subject's subdivision are not good indicators of subjects' value; absent evidence the sales should not be relied upon. There is no such evidence in the record.

It should be noted Appellant requested subjects' land value be placed at \$200,000 each rather than the price paid for the lots in 2006. This implies Appellant believes subjects' value has increased somewhat since their purchase. In the alternative, if we accept Respondent's allegation that subjects were not purchased in arm's-length transactions, the nearly \$17,000, or 9% difference between subjects' purchase price and Appellant's value claim, should cover any discount Appellant may have received. Given the evidence submitted in this matter, Appellant's value claim seems more reasonable and better supported. Therefore, the Board will reverse the decisions of the Ada County Board of Equalization to reflect a land value of \$200,000 per subject lot.

FINAL ORDER

In accordance with the foregoing Final Decision, IT IS ORDERED that the decisions of the Ada County Board of Equalization concerning the subject parcels be, and the same hereby are reversed, lowering the assessed land value to \$200,000 per lot.

IT IS FURTHER ORDERED that any taxes which have been paid in excess of those determined to have been due be refunded or applied against other *ad valorem* taxes due from

Appellant.

MAILED March 30, 2008